

REMARKS

This communication is a full and timely response to the final Office Action dated May 6, 2003, the period for response being extended through a Notice of Appeal filed on August 6, 2003, a request for a two month extension of time, and because December 6, 2003 was a Saturday. Moreover, this communication accompanies a Request for Continued Examination filed concurrently herewith. By this communication, claims 4, 6, 7, 11, 12, and 14 have been amended to improve form. Further each of claims 1 and 9 have been amended to similarly recite, among other things, presenting a fixation target to the eye via the objective lens so that the presented fixation target guides a line of vision of the eye; an indicator to indicate a presented position of the fixation target on the fundus is displayed optically or electrically on the fundus image displayed on the monitor; and the fixation target guiding the line of vision to a predetermined position by movement of the fixation target performed so that a display position of the indicator is moved to a display position of the guide target. Support for the changes to claims 1 and 9 can be found variously throughout the specification. For example, support for these changes can be found at page 9 lines 2 through page 10 line 22.

In addition, claims 15 and 16 have been added. Support for claims 15 and 16 can be found variously throughout the specification. For example, support for these changes can be found at page 9, lines 6-17. No new matter has been added. Claims 1-16 are pending where claims 1 and 9 are independent.

Entry of this Amendment is proper under 37 C.F.R. §1.116 since the amendment: (a) places the application in condition for allowance (for the reasons discussed herein); (b) does not raise any new issues requiring further search and/or consideration; (c) satisfies a requirement of form asserted in the previous Office Action; and (d) places the application in better form for appeal, should an appeal be necessary. The amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of this amendment is respectfully requested. Reexamination and reconsideration in light of the above amendments and the following remarks is respectfully requested.

Claim Objections

Claim 1 was objected to for alleged informalities. Applicants amended claim 1 in a Supplemental Amendment filed on April 21, 2003. In a telephonic interview on November 4,

2003, and in an Interview Summary dated November 17, 2003, the Examiner indicated that the objection to claim 1 was withdrawn. Applicants respectfully thank the Examiner for withdrawing this objection.

Rejections Under 35 U.S.C. §102

Claims 1-14 were rejected under 35 U.S.C. §102(b) as anticipated by *Nishihara*, Japanese Patent No. 09-173298. Applicants respectfully traverse this rejection.

Claim 1 recites a fundus camera comprising an observation optical system having an objective lens and a photographing element for photographing a fundus of an eye to be examined via the objective lens, the fundus being illuminated with illumination light for observation; a monitor on which an image of the photographed fundus is displayed; a fixation-target presenting optical system for presenting a fixation target to the eye via the objective lens so that the presented fixation target guides a line of vision of the eye; a fixation-target moving unit by which a position to present the fixation target is moved; a first display-control unit by which an indicator to indicate a presented position of the fixation target on the fundus is displayed optically or electrically on the fundus image displayed on the monitor; and a second display-control unit by which a guide target is displayed graphically in a predetermined position on the fundus image displayed on the monitor, the fixation target guiding the line of vision to a predetermined position by movement of the fixation target performed so that a display position of the indicator is moved to a display position of the guide target.

Claim 9 recites a fundus camera comprising an observation optical system having an objective lens and a photographing element for photographing a fundus of an eye to be examined via the objective lens, the fundus being illuminated with illumination light for observation; a monitor on which an image of the photographed fundus is displayed; a fixation-target presenting optical system for presenting a fixation target to the eye via the objective lens so that the presented fixation target guides a line of vision of the eye; a fixation-target moving unit by which a position to present the fixation target is moved; a first display-control unit by which an indicator to indicate a presented position of the fixation target on the fundus is displayed optically or electrically on the fundus image displayed on the monitor; and a second display-control unit having a program by which a guide target is displayed graphically in a plurality of predetermined positions on the fundus image displayed

on the monitor and a display form of the guide target is varied based on a sequence of photographing of plural parts of the fundus, the fixation target guiding the line of vision to predetermined positions by movement of the fixation target performed so that a display position of the indicator is moved to display positions of the guide target.

The present invention enables moving the fixation target to an arbitrary position while observing the indicator. In addition, the present invention enables, carrying out functions equal to a method in which the fixation target needs to be selected and the applicability of the position of the fixation target needs to be changed. This method is performed by only moving the indicator to the position of the guide target.

Nishihara discloses a fundus camera in which a presenting position of a fixation target is moved to guide the line of vision of an eye to be examined, and a plurality of parts of a fundus may be photographed to generate a panoramic image. In obtaining the panoramic image, *Nishihara* changes a displaying position of a photographing-area selection target "A" based on a position of the fixation lamp. However, for this goal, the photographer must judge the appropriateness of the position of the fixation lamp while observing a relative positional relationship between the image already obtained and the target A. *Nishihara* fails to disclose, teach, or suggest at least the fixation target guiding the line of vision to a predetermined position by movement of the fixation target performed so that a display position of the indicator is moved to a display position of the guide target, as recited in each of claims 1 and 9.

To properly anticipate a claim, the document must disclose, explicitly or implicitly, each and every feature recited in the claim. *See Verdegall Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Because *Nishihara* fails to disclose, teach, or suggest every element recited in each of claims 1 and 9, *Nishihara* does not anticipate these claims. Accordingly, Applicants respectfully request that the rejection of claims 1 and 9 under 35 U.S.C. §102 be withdrawn, and these claims be allowed.

Claims 2-8 depend from claim 1, and claims 10-14 depend from claim 9. By virtue of this dependency, Applicants submit that claims 2-8 and 10-14 are allowable for at least the same reasons given above with respect to their respective base claims. In addition, Applicants submit that claims 2-8 and 10-14 are further distinguished over *Nishihara* by the additional elements recited therein, and particularly with respect to each claimed

combination. Applicants respectfully request, therefore, that the rejection of claims 2-8 and 10-14 under 35 U.S.C. §102 be withdrawn, and these claims be allowed.

Claims 1-14 were rejected under 35 U.S.C. §102(b) as anticipated by *Matsumoto*, Japanese Patent No. 11-313800. Applicants respectfully traverse this rejection.

As noted above, the present invention, as recited in claims 1 and 9, enables moving the fixation target to an arbitrary position while observing the indicator. In addition, the present invention enables, carrying out functions equal to a method in which the fixation target needs to be selected and the applicability of the position of the fixation target needs to be changed. This method is performed by only moving the indicator to the position of the guide target.

Matsumoto discloses a fundus camera provided with a character K indicating a position of a fixation target 23a, and with reference marks ML and MR working in synchronization with the character K. *Matsumoto* projects alignment targets AL and AR onto the cornea from symmetrical directions with respect to the photographing optical axis and superimposes the images of the alignment targets reflected from the cornea (positions of the reflected images are changed according to alignment conditions) over the reference marks ML and MR to guide the photographing optical axis to the pupil center, even at the time of photographing a periphery of the eye to be examined. In other words, the alignment technique of *Matsumoto* is aimed at guiding the photographing optical axis to the pupil center not only when photographing is performed while centering macula of the fundus but also in other situations. Thus, the technique of *Matsumoto* differs from the present invention aimed at guiding the fixation position to a specific position. In particular, *Matsumoto* fails to disclose, teach, or suggest the fixation target guiding the line of vision to predetermined positions by movement of the fixation target performed so that a display position of the indicator is moved to display positions of the guide target.

To properly anticipate a claim, the document must disclose, explicitly or implicitly, each and every feature recited in the claim. *See Verdegall Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Because *Matsumoto* fails to disclose, teach, or suggest every element recited in each of claims 1 and 9, *Matsumoto* does not anticipate these claims. Accordingly, Applicants respectfully request that the rejection of claims 1 and 9 under 35 U.S.C. §102 be withdrawn, and these claims be allowed.

Claims 2-8 depend from claim 1, and claims 10-14 depend from claim 9. By virtue of this dependency, Applicants submit that claims 2-8 and 10-14 are allowable for at least the same reasons given above with respect to their respective base claims. In addition, Applicants submit that claims 2-8 and 10-14 are further distinguished over *Matsumoto* by the additional elements recited therein, and particularly with respect to each claimed combination. Applicants respectfully request, therefore, that the rejection of claims 2-8 and 10-14 under 35 U.S.C. §102 be withdrawn, and these claims be allowed.

Newly Added Claims

As noted above, claims 15 and 16 have been added to the application. Claim 15 depends from claim 1, and claim 16 depends from claim 9. By virtue of this dependency, Applicants submit that claims 15 and 16 are allowable for at least the same reasons given above with respect to their respective base claims. In addition, Applicants submit that claim 15 is further distinguished over *Nishihara* and claim 16 is further distinguished over *Matsumoto*. Each by the additional elements recited therein, and particularly with respect to each claimed combination. Applicants respectfully request, therefore, that claims 15 and 16 be allowed.

Conclusion

Based on at least the foregoing amendments and remarks, Applicants submit that claims 1-16 are allowable, and this application is in condition for allowance. Accordingly, Applicants request favorable reexamination and reconsideration of the application. In the event the Examiner has any comments or suggestions for placing the application in even better form, Applicants request that the Examiner contact the undersigned attorney at the number listed below.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. WEN-0007 from which the undersigned is authorized to draw.

Dated: December 8, 2003

Respectfully submitted,

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